

# Senate Amendment 5104

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1 1 Amend Senate File 2257 as follows:  
1 2 #1. By striking everything after the enacting  
1 3 clause and inserting the following:  
1 4 <Section 1. NEW SECTION. 515.109A USE OF CREDIT  
1 5 INFORMATION == PERSONAL INSURANCE.  
1 6 1. DEFINITIONS. As used in this section unless  
1 7 the context otherwise requires:  
1 8 a. "Adverse action" means a denial of issuance,  
1 9 cancellation, or refusal to renew, an increase in any  
1 10 charge for, or a reduction or other unfavorable change  
1 11 in the terms of coverage or amount of any personal  
1 12 insurance existing or applied for, or in connection  
1 13 with the underwriting of personal insurance.  
1 14 b. "Affiliate" means any company that controls, is  
1 15 controlled by, or is under common control with another  
1 16 company.  
1 17 c. "Applicant" means an individual who has applied  
1 18 to be covered by a personal insurance policy with an  
1 19 insurer.  
1 20 d. "Consumer" means an insured whose credit  
1 21 information is used or whose insurance score is  
1 22 calculated in the underwriting or rating of a personal  
1 23 insurance policy or an applicant for such a personal  
1 24 insurance policy.  
1 25 e. "Consumer reporting agency" means any person  
1 26 that, for monetary fees, dues, or on a cooperative  
1 27 nonprofit basis, regularly engages in whole or in part  
1 28 in the practice of assembling or evaluating consumer  
1 29 credit information or other information concerning  
1 30 consumers for the purpose of furnishing consumer  
1 31 credit reports to third parties.  
1 32 f. "Credit information" means any information  
1 33 related to credit that is contained in or derived from  
1 34 a credit report, or provided in an application for  
1 35 personal insurance. Information that is not related  
1 36 to credit shall not be considered "credit information"  
1 37 regardless of whether the information is contained in  
1 38 or derived from a credit report or an application for  
1 39 credit or is used to calculate an insurance score.  
1 40 g. "Credit report" means any written, oral, or  
1 41 other communication of information by a consumer  
1 42 reporting agency that relates to a consumer's  
1 43 creditworthiness, credit standing, or credit capacity  
1 44 and that is used or expected to be used or is  
1 45 collected, in whole or in part, for the purpose of  
1 46 serving as a factor in determining personal insurance  
1 47 premiums, eligibility for personal insurance coverage,  
1 48 or tier placement.  
1 49 h. "Insurance score" means a number or rating that  
1 50 is derived from an algorithm, computer application,  
2 1 model, or other process that is based in whole or in  
2 2 part on credit information for the purposes of  
2 3 predicting the future insurance loss exposure of a  
2 4 consumer.  
2 5 i. "Insured" means an individual who is covered by  
2 6 a personal insurance policy.  
2 7 j. "Personal insurance" means personal insurance  
2 8 and not commercial insurance and is limited to private  
2 9 passenger automobile, homeowners, farm owners,  
2 10 personal farm liability, motorcycle, mobile home  
2 11 owners, noncommercial dwelling fire insurance, boat,  
2 12 personal watercraft, snowmobile, and recreational  
2 13 vehicle policies, that are individually underwritten  
2 14 for personal, family, farm, or household use. No  
2 15 other type of insurance is included as personal  
2 16 insurance for the purposes of this section.  
2 17 2. USE OF CREDIT INFORMATION. An insurer  
2 18 authorized to do business in Iowa that uses credit  
2 19 information to underwrite or rate risks for a policy  
2 20 of personal insurance shall not do any of the  
2 21 following:

2 22 a. Use an insurance score that is calculated using  
2 23 income, gender, address, zip code, ethnic group,  
2 24 religion, marital status, or nationality of a consumer  
2 25 as a factor.

2 26 b. Deny issuance, cancel, or refuse to renew a  
2 27 policy of personal insurance solely on the basis of  
2 28 credit information, without consideration of any other  
2 29 applicable underwriting factors independent of credit  
2 30 information that are not otherwise prohibited under  
2 31 paragraph "a".

2 32 c. Base a consumer's renewal rates for personal  
2 33 insurance solely on the basis of credit information,  
2 34 without consideration of any other applicable  
2 35 underwriting factors independent of credit information  
2 36 that are not otherwise prohibited under paragraph "a".

2 37 d. Take adverse action against a consumer solely  
2 38 because the consumer does not have a credit card  
2 39 account, without consideration of any other applicable  
2 40 underwriting factors independent of credit information  
2 41 that are not otherwise prohibited under paragraph "a".

2 42 e. Consider an absence of credit information or an  
2 43 inability to calculate an insurance score in  
2 44 underwriting or rating personal insurance unless the  
2 45 insurer does one of the following:

2 46 (1) Treats the consumer as if the consumer has  
2 47 neutral credit information, as defined by the insurer.

2 48 (2) Excludes the use of credit information as an  
2 49 underwriting factor and only uses other underwriting  
2 50 criteria.

3 1 f. Take adverse action against a consumer based on  
3 2 credit information, unless the insurer obtains and  
3 3 uses a credit report issued or an insurance score  
3 4 calculated within ninety days before the date a  
3 5 personal insurance policy is first written or a  
3 6 renewal is issued.

3 7 g. Use credit information unless not later than  
3 8 every thirty-six months following the last time that  
3 9 the insurer obtained current credit information for  
3 10 the consumer, the insurer recalculates the insurance  
3 11 score or obtains an updated credit report for the  
3 12 consumer. Regardless of the requirements of this  
3 13 paragraph, an insurer shall do all of the following:

3 14 (1) At annual renewal, upon the request of the  
3 15 consumer or the consumer's agent, the insurer shall  
3 16 re-underwrite and re-rate the personal insurance  
3 17 policy based upon a current credit report or insurance  
3 18 score. An insurer is not required to recalculate an  
3 19 insurance score or obtain a current credit report more  
3 20 than once in a twelve-month period.

3 21 (2) The insurer shall have the discretion to  
3 22 obtain current credit information for a consumer more  
3 23 frequently than every thirty-six months, if consistent  
3 24 with the insurer's underwriting guidelines.

3 25 (3) Notwithstanding subparagraph (1), an insurer  
3 26 is not required to obtain current credit information  
3 27 for a consumer if any of the following applies:

3 28 (a) The insurer is treating the consumer as  
3 29 otherwise approved by the commissioner of insurance.

3 30 (b) The consumer is in the most favorably priced  
3 31 tier of the insurer, within a group of affiliated  
3 32 insurers. However, the insurer shall have the  
3 33 discretion to obtain current credit information, if  
3 34 consistent with the insurer's underwriting guidelines.

3 35 (c) Credit information was not used for  
3 36 underwriting or rating the insured when the personal  
3 37 insurance policy was initially written. However, the  
3 38 insurer shall have the discretion to obtain current  
3 39 credit information, if consistent with the insurer's  
3 40 underwriting guidelines.

3 41 (d) The insurer reevaluates the insured beginning  
3 42 no later than thirty-six months after the personal  
3 43 insurance policy was initially written and thereafter,  
3 44 based on other underwriting or rating factors,  
3 45 excluding credit information.

3 46 h. Use any of the following as a negative factor  
3 47 in any insurance scoring methodology or in reviewing  
3 48 credit information for the purpose of underwriting or  
3 49 rating a personal insurance policy:

3 50 (1) Credit inquiries not initiated by the consumer  
4 1 or inquiries requested by the consumer for the  
4 2 consumer's own credit information.

4 3 (2) Inquiries relating to insurance coverage, if  
4 4 so identified on a consumer's credit report.  
4 5 (3) Collection accounts with a medical industry  
4 6 code, if so identified on a consumer's credit report.  
4 7 (4) Multiple lender inquiries, if coded by a  
4 8 consumer reporting agency on the consumer's credit  
4 9 report as being from the home mortgage industry and  
4 10 made within thirty days of one another, unless only  
4 11 one inquiry is considered.  
4 12 (5) Multiple lender inquiries, if coded by a  
4 13 consumer reporting agency on the consumer's credit  
4 14 report as being from the automobile lending industry  
4 15 and made within thirty days of one another, unless  
4 16 only one inquiry is considered.

4 17 3. DISPUTE RESOLUTION AND ERROR CORRECTION. If it  
4 18 is determined through the dispute resolution process  
4 19 set forth under the federal Fair Credit Reporting Act,  
4 20 15 U.S.C. } 1681i(a)(5), that the credit information  
4 21 of a current insured is incorrect or incomplete and  
4 22 the insurer receives notice of such determination from  
4 23 either the consumer reporting agency or from the  
4 24 insured, the insurer shall re-underwrite and re-rate  
4 25 the insured within thirty days of receiving the  
4 26 notice. After re-underwriting or re-rating the  
4 27 insured, the insurer shall make any adjustments  
4 28 necessary, consistent with the insurer's underwriting  
4 29 and rating guidelines. If an insurer determines that  
4 30 an insured has overpaid premium on a personal  
4 31 insurance policy, the insurer shall refund the amount  
4 32 of the overpayment to the insured, calculated for  
4 33 either the last twelve months of coverage or the  
4 34 actual policy period, whichever is shorter.

4 35 4. INITIAL NOTIFICATION.  
4 36 a. If an insurer writing personal insurance uses  
4 37 credit information in underwriting or rating a  
4 38 consumer, the insurer or the insurer's agent shall  
4 39 disclose, either on the insurance application or at  
4 40 the time that the insurance application is taken that  
4 41 the insurer may obtain credit information of the  
4 42 consumer in connection with the application. Such  
4 43 disclosure to a consumer shall either be written or  
4 44 provided in the same medium as the application for  
4 45 insurance. An insurer is not required to provide the  
4 46 disclosure statement required under this subsection to  
4 47 a consumer in connection with the renewal of a  
4 48 personal insurance policy if the consumer has  
4 49 previously been provided with such a disclosure  
4 50 statement.

5 1 b. An insurer that uses the following statement of  
5 2 disclosure shall be deemed to be in compliance with  
5 3 this subsection:  
5 4 "In connection with this application for insurance,  
5 5 we may review your credit report or use a credit-based  
5 6 insurance score based on the information contained in  
5 7 that credit report. We may use a third party in  
5 8 connection with the development of your insurance  
5 9 score."  
5 10 5. NOTIFICATION OF ADVERSE ACTION. If an insurer  
5 11 takes adverse action against a consumer based on  
5 12 credit information, the insurer shall do all of the  
5 13 following:  
5 14 a. Provide notification to the consumer that  
5 15 adverse action has been taken, in accordance with the  
5 16 requirements of the federal Fair Credit Reporting Act,  
5 17 15 U.S.C. } 1681m(a).  
5 18 b. Provide notification to the consumer explaining  
5 19 the reasons for the adverse action taken. Such notice  
5 20 shall give reasons for the adverse action taken in  
5 21 language that is sufficiently clear and specific so  
5 22 that a person can identify the basis for the insurer's  
5 23 decision to take adverse action. Such notification  
5 24 shall include a description of up to four factors that  
5 25 were the primary influences for the adverse action  
5 26 taken. The use of generalized terms such as "poor  
5 27 credit history", "poor credit rating", or "poor  
5 28 insurance score" does not meet the explanation  
5 29 requirements of this paragraph. Standardized credit  
5 30 explanations that are provided by consumer reporting  
5 31 agencies or other third-party vendors are deemed to  
5 32 comply with this paragraph.

5 33 6. INFORMATION FILED WITH THE COMMISSIONER OF

5 34 INSURANCE.  
5 35 a. An insurer that uses insurance scores to  
5 36 underwrite and rate risks for personal insurance shall  
5 37 file the insurer's scoring models or other scoring  
5 38 processes with the commissioner of insurance. A third  
5 39 party may file scoring models on behalf of an insurer.  
5 40 Information filed with the commissioner that includes  
5 41 insurance scoring models may include information  
5 42 including loss experience that justifies the insurer's  
5 43 use of credit information.  
5 44 b. Information filed with the commissioner of  
5 45 insurance pursuant to this subsection shall be  
5 46 considered a confidential record and be recognized and  
5 47 protected as a trade secret pursuant to section 22.7,  
5 48 subsection 3.  
5 49 7. INDEMNIFICATION. An insurer shall indemnify,  
5 50 defend, and hold harmless agents or producers of the  
6 1 insurer from and against all liability, fees, and  
6 2 costs, arising out of or relating to the actions,  
6 3 errors, or omissions of an agent or producer who  
6 4 obtains or uses credit information or insurance scores  
6 5 on behalf of an insurer, provided that the agent or  
6 6 producer follows the instructions or procedures  
6 7 established by the insurer and complies with any  
6 8 applicable law or regulation. This subsection shall  
6 9 not be construed to provide a consumer or other  
6 10 insured with a cause of action that does not exist in  
6 11 the absence of this subsection.  
6 12 8. CONSUMER REPORTING AGENCY == SALE OF CREDIT  
6 13 INFORMATION.  
6 14 a. A consumer reporting agency shall not provide  
6 15 or sell data or lists that include any information  
6 16 that was submitted, in whole or in part, in  
6 17 conjunction with an insurance inquiry about a  
6 18 consumer's credit information or a request for a  
6 19 credit report or insurance score. Such information  
6 20 includes, but is not limited to, the expiration dates  
6 21 of an insurance policy or any other information that  
6 22 can be used to identify the expiration date of a  
6 23 consumer's insurance policy or the terms and  
6 24 conditions of the consumer's insurance coverage.  
6 25 b. This subsection does not apply to the provision  
6 26 of information, including data or lists, by a consumer  
6 27 reporting agency to the agent or producer from whom  
6 28 the information was received, to the insurer on whose  
6 29 behalf the agent or producer acted, or to the  
6 30 insurer's affiliates or holding companies.  
6 31 c. This subsection shall not be construed to  
6 32 restrict an insurer from obtaining a claims history  
6 33 report or a motor vehicle report of a consumer.  
6 34 9. SEVERABILITY. If any subsection, paragraph,  
6 35 sentence, clause, phrase, or any other part of this  
6 36 section is declared invalid due to an interpretation  
6 37 of or a future change in the federal Fair Credit  
6 38 Reporting Act, the remaining subsections, paragraphs,  
6 39 sentences, clauses, phrases, or parts thereof shall be  
6 40 in no manner affected thereby but shall remain in full  
6 41 force and effect.  
6 42 10. APPLICABILITY DATE. This section applies to  
6 43 personal insurance contracts or policies delivered,  
6 44 issued for delivery, continued, or renewed in this  
6 45 state on or after April 1, 2005.>  
6 46 #2. Title page, line 2, by striking the words  
6 47 <lines of property and casualty>.  
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7 1 STEVE KETTERING  
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